

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ERIC HOLDER, : CIVIL ACTION
ATTORNEY GENERAL, :
UNITED STATES OF AMERICA, :
: Plaintiff, :
: :
v. :
: :
DAVID ALLEN BRANCA, :
: :
Defendant. : No. 09-_____

COMPLAINT

Eric Holder, Attorney General, United States of America (the "United States Attorney General"), by the undersigned attorneys, asserts a cause of action against Defendant, David Allen Branca, under the Freedom of Access to Clinic Entrances Act ("FACE"), 18 U.S.C. § 248 (1994).

1. The United States Attorney General has reasonable cause to believe that Defendant has committed, and may continue to commit, violations of FACE, and that various persons have been and may continue to be injured by Defendant's conduct.

JURISDICTION, STANDING, AND VENUE

2. This Court has jurisdiction over this action pursuant to FACE, 18 U.S.C. § 248(c)(2); and 28 U.S.C. § 1345.

3. The United States Attorney General has standing to bring this action pursuant to FACE 18 U.S.C. § 248(c)(2).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), in that Defendant resides

in this judicial district, and the events giving rise to this complaint occurred in this judicial district.

FACTUAL BACKGROUND

Defendant: David Allen Branca

5. Defendant resides in the Eastern District of Pennsylvania at 19 Louella Drive, Plymouth Meeting, Pennsylvania 19462; Defendant maintains or maintained the internet website, <http://www.catholictruefaith.org/argumentabortion.htm>.

Defendant's general anti-abortion activities

6. Since approximately 2003, Defendant has actively engaged in, and contributed to, various anti-abortion activities and publications. He has participated in protests at reproductive health care clinics and at the homes of various physicians who provide reproductive health care services, including abortions.

7. Defendant's anti-abortion activities and efforts have included, inter alia, the publication and dissemination of various messages circulated on his internet website, <http://www.catholictruefaith.org/argumentabortion.htm>.

8. Defendant's anti-abortion publications have identified physicians who provide or have provided reproductive health care services to women residing in the Eastern District of Pennsylvania.

9. Through his publications, including his internet website, Defendant intends to force certain identified physicians to cease providing reproductive health care services.

Defendant's actionable threats

10. Through his publications, including his internet website, Defendant threatened physicians providing reproductive health care services.

11. Defendant explicitly encouraged readers of his internet website to shoot and kill physicians providing reproductive health care services.

12. Defendant published on his internet website, the names of reproductive health care physicians, as well as their home and work addresses.

13. Defendant's internet website stated in relevant part:

I have no problem saying kill the abortionist
because they intentionally recklessly and cold
bloodedly murder babies. First degree murder,
CAPITAL CRIMES PUNISHABLE BY DEATH.

Here is an address for you. [Full name of a
physician, followed by his home address, township,
city, state and zip code]. He kills at his major
death camp at Berger Benjamin at 1335 Tabor Road
in Philadelphia. Next to Einstein Medical Center
on Broad Street. He kills for Malcolm Polis at
the Northeast Women's Center on Comly Road in NE
Phila. He also kills at Einstein, and lastly
kills at Cherry Hill Women's Center. Do the
babies a favor, save them if you have the courage.
I don't have the courage as most of us don't. But
when we all fry to death from the American
government and the other governments of the world

don't complain.

Roe v. Wade will not be overturned nor will the laws we need to protect babies on a wide scale will be made or enforced. You want to end Roe, we now have a 5 to 4 court in favor of baby murder. Now with a spot that must take place to begin ending legalized abortion we need to get one of those baby murderer justices off the bench.

So now I have interpreted that we can be equal and say go kill all the abortionists in America. If you want to kill anyone of them from these clinics or hospitals you have just as much right as they do. They are permitted to kill babies, you are permitted to stop them. Stop as many as you must since you will not get away with it. The world will condemn you to prison or the death penalty.
I want you to get out of it un-noticed, you are not a murderer or a killer if you do these things to abortionists or Supreme Court Justices
upholding Roe. But perhaps some will be able to do it and not get found out. Get [name of second physician] and [name of a third physician] for the babies. Here is a chance for mercenaries and skilled hunters with scopes.

<http://www.catholictruefaith.org/argumentabortion.htm> (excerpts from Defendant's website (emphasis added)). These messages continued to appear on Defendant's internet website until their removal was requested by the United States Attorney's Office, the FBI, and a United States Supreme Court Threat Assessment Officer.

14. Defendant intended to cause reproductive health care physicians to fear for their safety and cease providing reproductive health care services.

15. Defendant's conduct as averred in paragraphs 10-13 hereof constitutes a threat of death or serious bodily injury to

the identified individual reproductive health care physicians.

16. Defendant's conduct as averred in paragraphs 10-13 hereof intimidated, and may continue to intimidate, the identified physicians, and Defendant's conduct interferes with the ability of the physicians to provide reproductive health care services.

17. On information and belief, Defendant willfully engaged in the conduct averred in paragraphs 10-13 when he published on his internet website the threatening messages and those messages were intended to injure and/or intimidate and to interfere with the ability of reproductive health care physicians to provide reproductive health care services.

CAUSE OF ACTION UNDER FACE

18. The United States Attorney General incorporates herein the averments of paragraphs 1 through 17 hereof.

19. Defendant's anti-abortion publications as described above are "threats" of bodily injury designed to injure and intimidate individual(s) who provide reproductive health care services.

20. Defendant's actions as averred in paragraphs 10-13 hereof constitute violations of FACE, 18 U.S.C. § 248 in that they constitute wilful threats of bodily harm and force with the intent to injure, intimidate and interfere with a person providing reproductive health care services.

21. The United States Attorney General is authorized under FACE, 18 U.S.C. § 248(c)(2)(B), to seek and obtain permanent injunctive relief from this Court for Defendant's violations.

22. The United States Attorney General seeks a permanent injunction enjoining Defendant and any and all of his representatives, officers, agents, servants, employees and attorneys, and those persons acting in concert with him, from violating, aiding, abetting, directing or inciting others to violate statutory provisions of FACE by using force and threat of force intentionally to injure, intimidate and interfere with, or to attempt intentionally to injure, intimidate and interfere with any person or any class of persons from obtaining, providing or supporting reproductive health care services.

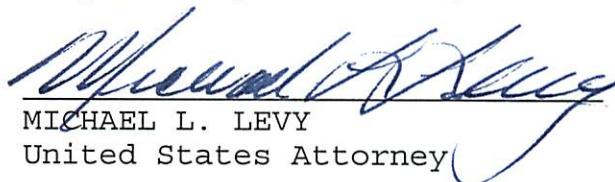
CONCLUSION

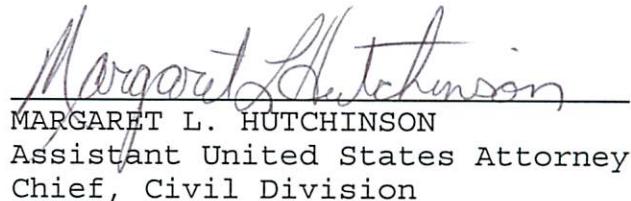
WHEREFORE, the United States Attorney General respectfully requests judgment in his favor and against Defendant, David Allen Branca, in the form of an order prohibiting Defendant and his representatives, agents, employees and any others acting in concert or participation with him, from publishing, either orally or in writing, on paper or in electronic format, in whole or in substantial part, the messages appearing on his internet website as set forth in paragraph 13 hereof or from publishing, either orally or in writing, on paper or in electronic format, equivalent messages that contain the names, addresses, personal information or photographs of

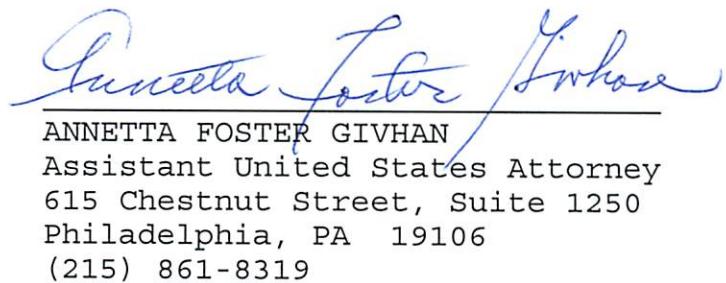
reproductive health care physicians, staff, or patients with the intent to threaten the physicians, staff, or patients -- or any other person or any class of persons -- thus preventing them from providing or obtaining reproductive health care services.

The United States Attorney General is entitled to an order granting such relief.

Respectfully submitted,


MICHAEL L. LEVY
United States Attorney


MARGARET L. HUTCHINSON
Assistant United States Attorney
Chief, Civil Division


ANNETTA FOSTER GIVHAN
Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
(215) 861-8319

Attorneys for the Attorney General
of the United States of America